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Financing of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994

Report of the Secretary-General on the activities of the Office of Internal Oversight Services

Note by the Secretary-General

1. Pursuant to General Assembly resolution 50/213 C of 7 June 1996, the Secretary-General has the honour to transmit, for the attention of the Assembly, the attached report, conveyed to him by the Under Secretary-General for Internal Oversight Services, on the follow-up to the 1997 audit and investigation of the International Criminal Tribunal for Rwanda.

2. The Secretary-General takes note of the findings and in general concurs with the recommendations, subject to further review of those pertaining to personnel matters.

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Report of the Office of Internal Oversight Services on the follow-up to the 1997 audit and investigation of the International Criminal Tribunal for Rwanda

Summary

The present report advises the General Assembly of the key findings of the Office of Internal Oversight Services in this follow-up to the report on the International Criminal Tribunal for Rwanda transmitted to the Assembly on 6 February 1997 (A/51/789). Improvements were observed in virtually every area surveyed by the team of investigators and auditors. In those administrative areas where the team identified ongoing or new problems, the new Registrar and the new Chief of Administration reported that they were in the process of taking corrective action.

Further, the team noted that the Office of the Prosecutor in Kigali had a new Deputy Prosecutor, whose leadership had significantly strengthened that Office. The relationship between the Registry and the other two functions of the Tribunal, the Chambers and the Office of the Prosecutor, is reported by all parties to have improved, and the improved relationship between the Registry and the Office of the Prosecutor has contributed to the completion of Project NAKI (Nairobi-Kigali), which saw the arrest of seven significant targets of investigation. There are now 23 detainees in the custody of the Tribunal. Two courtrooms are functioning, allowing two trials to be held simultaneously.

Moreover, the Secretariat, notably the Department of Management and the Office of Legal Affairs, has taken necessary and affirmative steps to assist the Tribunal in achieving the goals set by the Security Council. Their efforts in the establishment of a functioning Tribunal have contributed substantially to the changes noted here. Indeed, most of the key recommendations of the previous report have been or are in the process of being implemented. A detailed assessment of the implementation of the recommendations of the Office of Internal Oversight Services has been provided to the officials of the Tribunal and the Secretariat.

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I. Introduction

1. On 8 November 1994, by its resolution 955 (1994), the Security Council adopted the statute that created the International Criminal Tribunal for Rwanda. The Tribunal is responsible for the prosecution and trial of persons responsible for genocide and other serious violations of international humanitarian law committed in the territory of Rwanda and Rwandan citizens responsible for genocide and other such violations committed in the territory of neighbouring States between 1 January and 31 December 1994. Three separate functions were established: the Chambers, headed by the President of the Tribunal; the Registry, headed by the Registrar and based, like the Chambers, in Arusha, United Republic of Tanzania; and the Office of the Prosecutor, headed by the Prosecutor, who is also the Prosecutor for the International Criminal Tribunal for the former Yugoslavia, based in Kigali. Pursuant to the authority provided by the statute, the Tribunal adopted the Rules of Procedure and Evidence on 5 July 1996, as amended on 6 June 1997.

2. The Tribunal's appropriation for 1997 was $41.5 million (gross). For 1998, the Registrar proposed a budget of $65.3 million (gross). The Tribunal also has a Trust Fund, established in November 1994, to support the activities of the Tribunal, and cash contributions as at October 1997 totalled $7.4 million. Contributions in kind from Member States have been primarily in the form of seconded personnel and equipment, which, while in the Tribunal's inventory, have not yet been valued.

3. In February 1997, the Secretary-General transmitted to the General Assembly the report of the Office of Internal Oversight Services on the audit and investigation of the Tribunal (A/51/789). That report contained the findings and recommendations emanating from a review conducted in October and November 1996 by a joint team of auditors and investigators of the Office of Internal Oversight Services. As envisaged in that report, the Office conducted a follow-up review of the Tribunal during September and October 1997 in order to ascertain whether the problems it had identified had been or were in the process of being corrected and whether its 26 recommendations had been implemented (see annex). The follow-up review was carried out in Arusha, Kigali, The Hague and New York. The format and organization of the present report follows that of the previous one for ease of cross-reference. New matters brought to the attention of the Office during the review are also included.

4. The key findings of the review are described here; a full and detailed briefing was given to the Registrar and the Chief Administrative Officer. Additionally, briefings on their respective areas were given to the President of the Tribunal and the Prosecutor. On 26 November 1997, a draft of the report was issued confidentially for comment to the five key people whose departments or offices were directly involved: in the Tribunal, to the President (who responded, via Vice-President Ostrovsky, on 5 December 1997), the Prosecutor (who responded on 11 December 1997) and the Registrar (who responded on 2 January 1998); in the Secretariat, to the Under-Secretary-General for Management (who responded on 2 December 1997) and the Under-Secretary-General for Legal Affairs, the Legal Counsel (who responded on 10 December 1997).

5. *The Prosecutor and Deputy Prosecutor stated that the report fairly presented the issues that concerned the Office of the Prosecutor. The Vice-President of the Tribunal confirmed the report's findings with respect to the Chambers, but emphasized that much more needed to be done in providing support to the judges. The comments of the Registrar on specific issues are to be found in the appropriate subsections of the present report. The Registrar's general comments on the review are found at the conclusion of the section on the Registry.*

II. Overall assessment

6. Substantial changes have occurred in the Tribunal since the review by the Office of Internal Oversight Services in 1997. First, a new attitude in the Registry has fostered more cordial relationships with the Chambers and the Office of the Prosecutor, and second, the assistance provided by the Secretariat, primarily the Department of Management and the Office of Legal Affairs, has contributed significantly to improvements in the functioning of the Tribunal. The roles and functions of the Registry have been clarified with the advice of the Office of Legal Affairs. The heads of the three areas meet regularly and are establishing means of working with each other. With the support of key Registry staff, notably the new Registrar, and law enforcement authorities in Nairobi, the Office of the Prosecutor, under new leadership in Kigali, conducted a successful operation (Project NAKI (Nairobi-Kigali)) that led to the arrest of seven significant targets of investigation, bringing the total number of detainees held by the Tribunal to 23. Two courtrooms are operating and concurrent trials are being held. Interaction between the staff of the two Tribunals has increased significantly, with both Tribunals receiving

benefits from the joint training sessions, conferences, meetings and ongoing dialogue on issues of mutual concern.

7. In the past six months, the new officials of the Tribunal have effected major improvements in its operations. However, several areas require further attention by the Registry. The continuing assistance and guidance of the Secretariat, notably the Department of Management, is required to allow the Registry to implement fully changes in these areas.

III. The Registry

8. The Secretary-General appointed a new Registrar as from 1 March 1997. In addition, the Registry has a new Chief of Administration, a new Chief of Finance and a new Chief of Personnel. Those officials have prior United Nations experience; the Registrar, the Chief of Finance and the Chief of Personnel were most recently colleagues and senior officials at the United Nations Centre for Human Settlements (Habitat). The Chief of Administration served most recently in the Programme Planning and Budget Division at United Nations Headquarters. Reports received from both the Chambers and the Office of the Prosecutor confirm the existence of a new spirit in the Registry.

9. The Registrar advised the Office of Internal Oversight Services that he had two roles: to provide services to the other two functions of the Tribunal and to operate a United Nations office as the representative of the Secretary-General, ensuring that the mandate of the Security Council is followed and the rules and regulations are adhered to by the Tribunal. The team concluded that the Registrar had fulfilled the first role, making the Registry more responsive to the needs of the Chambers and the Office of the Prosecutor. Regarding the second role, improvements were verified. However, in some areas, the team observed deficiencies and trends that required correction. The Registrar assured the Office that those Registry operations where deficiencies were noted or where prior recommendations had not yet been fully implemented, would be corrected by the end of 1997.

A. Finance

10. The Finance Section was where a number of the most troubling deficiencies in operations were noted in the prior report of the Office of Internal Oversight Services. Key among them was the absence of financial information on the accounts of the Tribunal and the regular handling and transport of large amounts of cash.

11. One of the main responsibilities of the Section is to provide accurate financial reports to management. Substantial improvements were observed, but this requirement cannot be fully achieved by the Section because some expenditures and the payroll for international staff members are handled by the Secretariat at Headquarters. The Secretariat has had a delay in providing the accounts for the first 12 months of the biennium 1996-1997 because of problems with the integrated management information system (IMIS). Thus, the Registry had not received any consolidated financial reports.

1. Accounting system

12. Financial information compiled by the Registry was completed and made current with the assistance of the Department of Management. However, the new Chief of Finance decided to introduce a UNIX accounting system effective 1 January 1998. That system is similar to the one used by the United Nations Office at Nairobi. The Chief of Finance has advised the Office of Internal Oversight Services that he did not consider the Sun accounting system suitable for continued use by the Tribunal. At the time of the review, the Registry had already invested considerable human and financial resources in the UNIX system (approximately $100,000 for hardware and software) without having requested or received the Controller's authorization to introduce it. It was not until after the field visit that the Registry sought the Controller's concurrence, even though it had already started to run the new system in parallel with the existing Sun system. The UNIX system is old and very complicated, with manual controls and high maintenance costs. In its audits of the accounts at the Nairobi office, where the UNIX system still operates, the Office of Internal Oversight Services has observed weaknesses in the system's internal controls. The Registry was advised of those weaknesses. In any case, the Registry should have sought the Controller's advice and authorization prior to taking any steps with financial implications.

2. Cash management

13. The review of the management of the petty cash fund showed marked improvement, particularly in the actual cash levels maintained by the cashiers at both Arusha and Kigali. For example, the cash levels for Arusha were reduced from over $300,000, as reported previously, to a high of $15,667 in September of 1997 for all three imprest accounts. Also, the Registry took corrective action to pay staff members' salaries through the banks instead of using imprest funds, thereby reducing the risks associated with cash-fund management.

14. The Tribunal maintains six bank accounts, two in Kigali (for United States dollars and Rwandese francs), two in Arusha (for dollars and Tanzanian shillings), one in New York in dollars and one in Nairobi in Kenya shillings. The Registry has prepared the reconciliations relating to those banks on a current basis.

3. Imprest fund for procurement

15. The Office reviewed the imprest fund of $10,000, which had been authorized for procurement of urgently needed supplies for the Kigali office. The fund was in the custody of the Finance Assistant whose integrity had been questioned in the previous report of the Office (A/51/789, annex). The custodian kept the fund from May to August 1997, when the Chief of Finance reduced it to $3,000. Custody of the fund was transferred to the Kigali office cashier on 17 September 1997 because the Chief of Finance had learned that the custodian had been a subject of the prior report.

16. Between 1 June and 25 August 1997, the custodian spent $57,700 from the imprest fund on procurement of goods and services. The imprest fund was authorized in response to needs that had not been prioritized because of their relatively large number and the long period of time that the Kigali office remained unattended. Further, adequate control procedures for its operation had not been established. The Office found an absence of separation of functions; the staff member was the only custodian of the fund and often certified receipt of goods and/or services, and during that period also made payments either directly to vendors or through staff requisitions for the goods or services. Although he stated that two other staff members were involved in the collection of goods and were responsible for preparing receiving and inspection reports, that was not always true. Records were such that there was no trail for audit purposes, and therefore it was not possible to verify all purchases. There were several cases in which funds had been disbursed but receiving and inspection reports had not been prepared – a very serious weakness because not only did it contradict United Nations procurement procedures, but also funds may have been spent without goods actually having been received. As access to the safe in the custodian's office was unavailable during two visits, the Office of Internal Oversight Services was unable to confirm whether the funds previously unaccounted for were in the safe or had been properly spent.

4. Recovery of salary advances

17. The Registry advised the Office that significant salary and travel advances had been recovered. Since 1996, a total of $77,000 was still owed. Most of the payments due were owed by staff members who had left the Organization. Further, as recommended in the prior report, double payments of salary advances and entitlements, totalling $24,280 as at 30 November 1996, were recovered from the former Finance Assistant. However, in spite of the Office's recommendation not to renew the staff member's contract because of his demonstrated lack of integrity, his contract has been extended yet again, to 30 June 1998.

5. Payroll

18. International staff members were paid and processed by United Nations Headquarters. Delays in adding staff members to the payroll and delays in paying assignment and education grants were noted, but many of the delays could be attributed to IMIS problems and time lags at the Office of Human Resources Management. The Registry planned to have the total payroll of the Tribunal's personnel transferred to Arusha to resolve many of the delays. The Office also found cases in which staff members were working without contracts and were not on payroll. The Registry had begun to administer the payroll for locally recruited General Service staff on a payroll system adapted from the one in use at the Nairobi office. However, the Office of Internal Oversight Services found that the system had no built-in controls, which affected its accuracy and reliability, owing to the fact that it was an old dBase system. The Chief of Finance informed the Office that needed data-processing staff were being recruited to further improve the payroll system and also that they planned to have the system run in parallel with the Headquarters payroll system by the end of 1997.

6. Reimbursement for personal use of telephones and fax machines

19. Both Arusha and Kigali had established systems to ensure that the Tribunal would be reimbursed by staff members for personal telephone calls and faxes. The review showed that outstanding personal telephone and fax bills totalled $128,000 for both Arusha and Kigali as at August 1997. Of that amount $83,000, or 65 per cent, was pending recovery from staff members; 35 per cent was owed by former staff members.

B. Personnel

20. Improvements in the personnel function were also noted, and the contribution of the Department of Management to those improvements was significant and substantial. Most of the Office's personnel recommendations had been fully implemented, such as a recommendation that qualified candidates with fluency in both French and English be sought. The Registry is committed to hiring staff who have experience with court operations so as to correct the lack of experience of the current Chamber management staff. The Registry had selected a candidate for Deputy Registrar, but when the candidate did not take up the post the offer of appointment was withdrawn and the search had to begin anew. According to the Registrar, three candidates with experience in court management were to be interviewed in the coming weeks, and a selection would be made in consultation with the President of the Tribunal.

21. Current practice is for all Tribunal recruitment to be approved by the Registrar. As from 30 September 1997, the Registry was delegated recruitment authority by the Office of Human Resources Management for the period from 1 October 1997 to 30 September 1998. An Appointment and Promotion Board, an Appointment and Promotion Panel, a Joint Advisory Board and other administrative review units were established. The Office of Internal Oversight Services was told by the Office of Human Resources Management that the Tribunal's recruitment process was very slow. The Office of Human Resources Management would continue to monitor the activities of the Tribunal and to provide assistance and training.

1. Recruitment

22. The major critical finding in the area of personnel was that United Nations recruitment procedures were not consistently followed in 1997. The Office of Internal Oversight Services found inconsistencies in the recruited levels of professionals and field service staff. For example, it found that four Office of the Prosecutor investigators with virtually identical police experience but no university degree had a wide diversity in appointment levels, from P-5 to P-3 to FS-4. In the Language and Conference Services Section, some translators from one country were recruited at the P-4 level while staff members from other countries with equal educational background and working experience were recruited at the P-3 level. Law degrees were inconsistently rated for Professional-level posts as well. A United Nations Centre for Human Settlements (Habitat) staff member selected as the adviser to the Registrar for gender issues was hired without circulating the vacancy.

23. *The Registrar stated that vacancy announcement was not a required recruitment procedure in the case of the International Criminal Tribunal for Rwanda, and that the same objective could be achieved through the maintenance of a comprehensive roster of candidates. The Registrar argued that in the case of the adviser for gender issues, who met the qualifications, he saved money by choosing her without posting the position.*

24. While the requirement for vacancy announcements was not imposed on the Tribunal in 1995, in the early days of the Tribunal, so as to speed the original recruitments, the exception was not granted in perpetuity by the Office of Human Resources Management. Further, for the gender post, there were only two other candidates on the "roster", neither of whom had the required experience and both of whom were in their mid-20s. Thus, the Office of Internal Oversight Services maintained its position that without advertising the post, it remained unknown whether the candidate selected was the best qualified person.

25. A number of important section chief posts were still vacant, including those of Press and Public Affairs, Procurement, General Services, Electronic Data-Processing, Language and Conference Services, Communications, Security Services and Witness Protection.

26. A substantial number of vacancies for lawyers and investigators in the Office of the Prosecutor were still to be filled. This was a critical gap given the number of major cases to be tried. *In that regard, the Registrar stated that as of 2 January 1998, no Office of the Prosecutor request for recruitment was pending. The Deputy Prosecutor stated that the newly created Appointment and Promotion Board had processed only 10 posts of the 30 contained in a request he had sent to the Registry for the recruitment of investigators. As a result, in December 1997 the Deputy Prosecutor sent a note to the Chief of Personnel listing what he believed to be the number of vacant posts and requesting clarification as to what the Chief considered to be the number of vacancies in the Office of the Prosecutor. In response, the Chief of Personnel sent him a tabulation indicating that the Office of the Prosecutor had posts that either were vacant or had been borrowed from it by the Registry.*

2. Travel

27. The Office of Internal Oversight Services reviewed the Tribunal's travel expenditures. The allotment for official travel of the Office of the Prosecutor was overspent in 1996 and 1997, while the allotment for the Registry was underutilized in both years. This indicates that the planning of travel requirements should be improved.

28. For the Registrar an exceptional arrangement was approved by the former Assistant Secretary-General for Human Resources Management to allow him to retain the emolument at the Nairobi rate and be paid a daily subsistence allowance at the Arusha rate for the period from 1 April to 30 June 1997. Therefore, the Registrar must be considered as being on travel status from Nairobi before his final instalment in Arusha. It appeared that the Registrar had been overpaid an amount of about $4,000 for the period, because when travelling to New York and other places he continued to receive a daily subsistence allowance for Arusha.

29. *The Registrar stated that the arrangements had been made in view of his transfer from Nairobi to Arusha on very short notice and that he had had to sustain two residences, in Nairobi and Arusha, throughout the period from April to June 1997. The Registrar also stated that he had paid for hotel accommodation in Arusha when he had to go on mission to New York and other places.* However, hotel invoices submitted to the Office by the Registrar showed hotel charges only for the periods from 6 April to 9 May and 1 to 26 June 1997.

C. Asset management

1. Inventory

30. United Nations procedures require that complete and accurate records be maintained of all property, including supplies, equipment and other property purchased, received, issued, sold or otherwise disposed of and that remaining on hand. Since the prior report of the Office of Internal Oversight Services, improvements in property management had been implemented by the General Services Section. However, additional measures, including the establishment of a Property Survey Board and full accounting of all property given by the United Nations Assistance Mission for Rwanda (UNAMIR) to the Tribunal, are required to ensure that property is correctly managed.

2. Non-expendable items

31. From the updated inventory list for non-expendable items, which as at May 1997 were valued at approximately $4.5 million, the Office selected 54 items, valued at approximately $398,000, for physical inspection and verified that all of the items were physically present and accounted for. The Office inspected other property, including televisions, video cassette recorders and generators issued to staff members, and found that contrary to United Nations rules, staff had not been required to account for the items.

3. Vehicle management

32. Tribunal guidelines require that vehicles be operated by authorized personnel, for official purposes only, and in such a way as to achieve the utmost economy and efficiency.

33. The review showed that vehicles continued to be used in disregard of administrative circulars restricting the use of vehicles for personal use to places outside Arusha and Kigali or for tourism. Control over vehicle utilization was virtually non-existent, particularly for vehicles allocated to individuals in Arusha and Kigali. Of particular concern was the fact that senior Registry staff used vehicles to commute outside Arusha. Moreover, said staff members did not submit trip tickets regularly. Following interviews with staff members in Kigali, the Office observed that staff members believed, incorrectly, that they each had a right to be allocated a vehicle for both official and private use.

34. Office of Internal Oversight Services staff found that control procedures in the transport sections were weak and required immediate attention. There was no log to indicate the movement of vehicles assigned to individuals. While the transport sections were able to control vehicles assigned to the vehicle pool, they had no control over vehicles assigned to specific individuals or sections. In Kigali, vehicles changed hands from one staff member to another on an informal basis without any documentation. The Tribunal met the expenses for fuel irrespective of the nature of the trips.

35. Most of the 126 vehicles, especially those in Kigali, were old (previously belonging to UNAMIR), in need of constant repair, incurring heavy expenses for maintenance and their useful life having expired long ago. Thirty-one vehicles were on order in 1997, and several of them arrived during the field review. The Tribunal had placed a requisition through Headquarters for 30 additional vehicles: 17 for Kigali and 13 for Arusha.

36. While the intent of management to provide shuttle transport to staff members from their places of residence to work and vice versa was valid, it is not cost-effective to transport staff members in both Arusha and Kigali to and from their residences for lunch between 12.30 and 2 p.m. Moreover, the Office noted that staff members were often absent for more than the authorized one-hour lunch period. Thus, though the new Registrar had authorized Tribunal offices to close at 2 p.m. on Fridays, it was with the proviso that the lunch period would be reduced to one hour so that staff members would fulfil their weekly time commitments.

4. In-kind contributions

(a) Law library

37. As a result of an in-kind contribution by a donor Government made in 1997, the law library of the Tribunal had been consolidated, with two computers, new books now totalling nearly 700, a CD-ROM and new subscriptions to various legal periodicals. Additional titles had recently been ordered. The Office had been advised that efforts were being made to recruit an experienced librarian and a library clerk. The judges pointed out that the library in Arusha was largely non-functional and that the lack of access to Internet research databases hindered their work. As early as July 1997, the Office of the Prosecutor in Kigali had requested the administration to assist in setting up a library. However, that request was honoured only in October 1997, after the team in Kigali had requested to see the library.

(b) Personnel

38. The number of personnel contributed by Member States had dropped significantly; as at October 1997, there were only nine secondees. However, the seconded personnel who had left the Office of the Prosecutor's Investigation Division had not yet been replaced by United Nations staff members. Member States had continued to make temporary advisers available to the Tribunal on such issues as witness protection.

D. Procurement

39. The Procurement and Contracts Section is primarily responsible for providing purchasing services to the Tribunal. The post of Section Chief is vacant, as is the supervisory post of Chief of General Services. Thus, one of the main requisitioners is supervising the purchasing and receiving function.

40. The Tribunal's Local Committee on Contracts was established in August 1996. Although it meets regularly, the Office noticed that no legal officer attended the 1997 Committee meetings until August. The Office also noticed *ex post facto* submissions to the Committee, but with a reduction in numbers as compared with the previous year. The Office had been advised by the Registry that those actions were the result of interim emergencies and would not occur again.

41. The Office reviewed a sample of 76 procurement files to test whether proper procedures had been followed. The Office found, for the most part, improvements documented in the files prepared by the former Chief of Procurement, especially regarding the use of competitive bidding and the recording and filing of procurement documents. However, the Office found evidence that office supplies were purchased from an international vendor in Dubai without bids; those supplies, which could have been ordered from Nairobi at a lower cost, were then transported by air at a high cost. A lack of procurement planning by the other Registry sections was also observed. Most of the requisitions submitted to the Procurement and Contracts Section were ad hoc and urgent cases, which made it difficult to adhere to United Nations rules and regulations. Where proper planning occurs, the Section may combine separate requisitions into larger purchases and thereby save funds.

42. The role of the Chief of Finance in procurement actions raises additional concerns. The Office noted sole-source purchases of office supplies personally made by the Chief of Finance from vendors in Nairobi. The Office also found a split purchase order for computers for the Finance Section, which was acknowledged in a handwritten note to the then Chief of General Services by the Chief of Finance to be "illegal", but which the Chief of Finance said was done on an emergency basis. Despite advice from the General Services Chief that the order, for $100,000, must go to the Local Committee on Contracts, the Chief of Finance, as Officer-in-Charge of administration, decided to split the order instead. Also, the Office found a direct purchase of furniture for the Registrar from a Nairobi vendor, which he had selected, and which in 1995 had supplied office furniture for his office at the United Nations Centre for Human Settlements (Habitat). The purchase by the Tribunal was made at a cost in excess of $10,000 and was done without bidding; further, a 50 per cent advance payment was made to the vendor before delivery.

43. *The Registrar stated that the company was approached to provide a catalogue, given the Registrar's familiarity with its products while in Nairobi.* The Registrar selected the furniture and sent the selection and the catalogue to the Chief Procurement Officer. The Office questions the need to purchase furniture for the Registrar's office, as the existing furniture was fairly new.

44. The sampling also disclosed that a contract had been awarded – by the Chief of Finance without bidding – to a new travel agent, who was also the travel agent used at the United Nations Office at Nairobi. The Registrar had given his approval, and a "pre-agreement" between the Chief of Finance and the travel agent had been entered into some months earlier, but the case had not yet been presented to the Local Committee on Contracts at the time of the field review. *The Registrar stated that that arrangement was temporary and that the Tribunal had already started the*

procurement process by contacting travel agencies in the area, and he expected that one would be selected early in 1998. The Office hopes that the process will be done through a competitive bidding process and by the Procurement and Contracts Section.

45. The Office observed in two important instances, namely, the purchase of computers and of vehicles, a lack of effective communication and assistance both within the Registry and between the Registry and the Purchase and Transportation Division at Headquarters, which significantly delayed the purchase of the computers and the vehicles.

E. Building management and construction

1. Courtrooms

46. Two courtrooms are now operating and the two Trial Chambers can hold simultaneous hearings. In late 1995 the Tribunal had issued a tender for the construction of two permanent courtrooms, office space and support facilities for its operations in the Arusha International Conference Centre. Because the lowest bidder's proposal was for a high total cost of almost $5.5 million, this tender exercise was cancelled following a recommendation of the Office of Internal Oversight Services. Because of changes made in the scope of work and in the type of contract to be awarded, construction had been continually delayed. The second courtroom was eventually completed on 29 September 1997, the date set for the starting of the trials. Since then, each of the Trial Chambers has been able to hold its trial proceedings independently.

47. In view of the progress achieved in the trials currently before the Chambers, the possibility of appeals being lodged and heard in 1998 must be considered. It is possible that a third courtroom will be needed if disruption of the trial calendar is to be avoided. Moreover, the Tribunal needs a courtroom that can accommodate a larger number of defendants in accordance with the Prosecutor's strategy of conducting multi-defendant trials. The construction of a third courtroom will require funding and planning for substantial additional subsidiary space, including holding cells, conference rooms, office space and recess rooms, all adjacent to the courtrooms. The Office was advised that plans to construct the third courtroom were under way and that the required facilities would be operational before court sessions resumed in early 1998, after the holiday recess.

48. However, the deficiencies in construction management and planning need to be overcome by the Registry to avoid costly delays. Thus, both the Chambers and the Office of the Prosecutor must be consulted on their plans and expectations so that planning for all new construction can be timely and take into account the rules and procedures of the United Nations.

2. Detention facility

49. The Tribunal, under the provisions of the statute and its Rules of Procedure and Evidence, is responsible for those persons it has detained for the purpose of bringing them to trial. To hold detainees and those convicted after trial, a prison facility was required that would be near to the courts where the legal proceedings would be held. The Registry entered into an agreement with the host Government to construct the facility on the premises of the existing Arusha prison compound using labour provided by the Government and materials provided by the Tribunal to accommodate, at first, 12 detainees, at a cost to the Tribunal of $186,562. The Headquarters Committee on Contracts, in its meeting on 29 February 1996, recommended the award to the host Government, but reduced the amount to $167,906.

50. After resolving problems of poor coordination and planning within the Registry, the Tribunal's detention facility was completed in July 1997. Although administrative areas and lawyer interview rooms as well as some additional security features had not yet been completed, the facility was operational.

51. Additional targets of investigation are likely. Thus, a second construction phase for 40 additional cells had been initiated. As at September 1997, total costs were $826,000.

3. Property leases

(a) Kigali

52. The Office of the Prosecutor in Kigali uses two leased spaces, including Hotel Amahoro (previously occupied at no cost by UNAMIR) and the communications/garage space. No new lease agreements for those spaces had been signed, although both leases expired in April 1997. The lease agreements were pending because the lessors had claimed higher rental amounts. During the follow-up review by the Office of Internal Oversight Services, advance rental payments totalling $180,000 had been made ($30,000 per month) for the Amahoro premises covering the period from April to October 1997, pending approval by the Headquarters Committee on Contracts. Meanwhile, the Headquarters Committee on Contracts had raised concerns because the initial rental rate it had approved, of $19,000 per month, was revised upwards to $30,000 per month without its approval. According to the Registry, the host Government had demanded an even higher sum at the time of signing the

initial agreement, which obligated it to enter into hasty negotiations resulting in a revision of the rent to $30,000. The Local Committee on Contracts was then forced to recommend that the Headquarters Committee on Contracts be requested to grant the *ex post facto* award of $360,000 per year, or $30,000 per month for two years, through April 1998. The matter had been deferred until the Local Committee on Contracts submitted clarifications and additional information to the Headquarters Committee on Contracts.

53. In the case of the other leased premises, used for communications and as garage space, the initial lease agreement was for $3,000 per month. The lessor had increased the rent to $5,000 per month, which the Registry had accepted effective January 1997.

54. Because the Office of the Prosecutor had indicated that the Amahoro space was inadequate for its needs, and because of the associations with UNAMIR as well as the high cost of the Amahoro space, the Registry had been looking for other space in Kigali that would meet present and future needs of the Office of the Prosecutor. Consideration was being given to a space-sharing arrangement with other United Nations and international organizations that would not compromise the security of the Office of the Prosecutor's operations.

(b) Arusha

55. The initial lease agreement between the Arusha International Conference Centre and the Tribunal, signed 31 October 1995, was for a period of four years, starting 1 November 1995. The Conference Centre was the only space in Arusha that could provide adequate space for the Tribunal's needs; it is made up of connecting wings, which are utilized for official, private office and conference needs. The lease agreement was approved by the Headquarters Committee on Contracts on 17 October 1997 with a ceiling of $831,600 for the four-year period.

56. The Tribunal was experiencing difficulties in the Conference Centre stemming from the lack of office space for new staff, for prosecutors and defence counsel during trials and for storage of equipment. Additional space was therefore being negotiated. The absence of alternatives in Arusha had led the Registry to enter into a series of discussions that resulted in several additions being made to the original space rented by the Tribunal. The need for a third courtroom, space for the press, a cafeteria, office space and storage rooms had added to the demand for space in the Conference Centre. However, as noted in the discussion on security (see sect. G below), the design of the Conference Centre and the sharing of public spaces, including conference halls, walkways and elevators, continued to undermine the security and confidentiality requirements of the Tribunal.

F. Witnesses and Victims Support Section

57. The Witnesses and Victims Support Section was established in 1996 and functions under the authority of the Registrar. The Registry was recruiting for a Section Chief. Pursuant to the Rules of Procedure and Evidence (rule 34), the Section is responsible for recommending appropriate measures of protection for victims and witnesses, for providing counselling and support (in particular in cases of rape and sexual assault) and for developing short- and long-term plans for the protection of witnesses who have testified before the Tribunal and who fear threats to their lives, property or families.

58. Witness and victim protection had emerged as a major logistical problem for the Tribunal. The Office was advised that 109 prosecution witnesses had been sworn in at the three trials held during the first eight months of 1997. More than 50 witnesses were brought by the Section to Arusha. It was anticipated that in 1998 more than 300 witnesses would be sworn in at the proceedings of the Trial Chambers.

59. Despite great efforts by dedicated staff aimed at improving the Section's efficiency, the most critical problem affecting its activities remained the lack of staff members with experience in witness protection in criminal trials. As a result, for prosecution witnesses, the Section must rely on the experience of the investigators of the Office of the Prosecutor. Difficulties had arisen with one important detainee as a result of this lack of experience. As the trials progress, this lack of experience – including risk assessment – can make the situation for important at-risk witnesses even more dangerous. Although Member States have sent and will continue to send advisers, in the absence of qualified staff the ability to provide basic protection will not be available to important prosecution and defence witnesses.

60. *The Registrar stated that the report of the Office of Internal Oversight Services depicted the Section as an amateurish operation, which was a grossly inaccurate and unfair depiction of the capabilities and performance of the Section and was flatly contradicted both by the undeniable evidence of a successful record and the opinion of objective observers who were in a position to know.*

61. However, the Office notes that the Registry still failed to distinguish between a witness *management* programme (i.e., providing transport, housing and other logistical support to witnesses), which the Section does very well by all accounts, and a witness *protection* programme (i.e., providing for the safety of witnesses before, during and after trials), which the Section currently cannot do without experienced staff. The acting head of the Section told the Office that he had to rely on investigators from the Office of the Prosecutor to provide protection to prosecution witnesses, a fact that the Office confirmed. *The Registrar also stated that not a single witness was said to have been interviewed by the Office on this subject, although actual witnesses would be in the best position to assess their support by the Section.* However, as was pointed out by the team during the review, to interview prosecution or defence witnesses in these criminal cases could be construed as witness tampering or interference by the Office and thereby create potential legal problems.

62. In its first review of the Tribunal, the Office recommended that the Witnesses and Victims Support Section be located within the Office of the Prosecutor. The Prosecutor had decided not to seek that change at present. Prosecution witnesses who are at risk during the investigative phase are under the protection of investigators of the Office of the Prosecutor. When they return to their homes in Rwanda following their testimony, protection is transferred to the host Government by the Registry.

G. Security

63. Because of ongoing concerns with security issues in both Kigali and Arusha, the team examined both locations in detail and observed an apparent lack of security in access to the premises and in control of documents. The Office noted that documents were often maintained on shelves, tables and desks. Security of documents did not appear to be a consideration. A system of classifying documents according to the nature of information or the message conveyed by them does not exist in the Tribunal in Arusha.

64. Following a security assessment mission in March 1997 by the Security and Safety Service, the Tribunal was provided with a detailed report containing specific recommendations. The Office noted that only some of those recommendations had been implemented. A follow-up mission by the Service was under consideration.

1. Arusha

(a) Access

65. The Arusha International Conference Centre complex consists of three wings of seven floors each. The Registry and the Chambers currently occupy floors two to four of the Kilimanjaro wing. The other floors of that wing and the other two wings are occupied by other tenants over whom the United Nations has no control. This raises problems relating to unauthorized access to the Tribunal's offices and courtrooms.

66. Of special importance is the security of judges. The critical areas are their residences and their route from home to the office and back, as well as the offices and courtrooms. There is only one exit from the floor where the Chambers are located. The judges must use public lifts, corridors and restrooms. Security is provided for the courtrooms and the Chambers by the United Nations security service and the Tanzanian police. Judges are transported between home and office by unarmed, non-uniformed United Nations security personnel. Each judge is allocated a vehicle and a driver for official duties at the Tribunal. Judges have been advised not to walk in Arusha, but they are not allocated a full-time driver and bodyguard or vehicle, which in the view of the Office would be reasonable and appropriate under the circumstances.

(b) Security briefings

67. New staff are apprised by the Chief of Security of the prevailing security situation, and a security awareness pamphlet is issued. However, regular security briefings are not given. In addition, each staff member must supply a sketch map of the location of his or her residence, which is filed by the security service.

(c) Evacuation plans

68. At Arusha, a relocation/evacuation plan for the Tribunal has been in place since June 1997, as recommended by the prior report of the Office. The Chief of Security confirmed that the plan was fully operational and had been filed with the United Nations Development Programme (UNDP) resident representative in Dar es Salaam.

2. Kigali

(a) Access

69. There is only one entrance to the main compound in Kigali, whose vehicular entrance has a main gate and a barrier. That entry is guarded on a 24-hour basis by both the United Nations security service and private guards.

Immediately adjacent to the main entrance is a 24-hour armed security detail from the Rwandan army. Vehicles are checked but passenger identification is not checked upon entry or exit.

70. The United Nations security service in Kigali is responsible for coordinating security support for investigators in the field. This involves armed escorts by the Rwandan army, the UNDP Security Coordinator and United Nations security officers.

(b) Security briefings

71. The Office of Internal Oversight Services confirmed that newly recruited staff members in Kigali, before being issued United Nations passes, are briefed by the security service on the prevailing security situation in Rwanda. After a fortnight the staff members receive a more detailed security briefing. A monthly United Nations travel procedure for the movement of staff is issued by the designated official for security.

(c) Evacuation plan

72. A security plan for the Office of the Prosecutor was in place and the UNDP representative for Rwanda was the designated official. However, the plan lacked essential logistical support at the concentration points. The Office also discovered that Office of the Prosecutor staff members did not report changes of address to the security service.

H. Operation of the Trust Fund

73. A proposal to establish a Trust Fund for the Tribunal was issued by the Legal Counsel and was approved by the Controller on 29 November 1994. The purpose of the Trust Fund is to support the activities of the Tribunal and to enable it to fulfil the mandate set forth in its statute. The Registrar is responsible to the Secretary-General for the use of the Trust Fund.

74. Contributions to the Trust Fund, as at October 1997, totalled more than $7.3 million. The financial reports recorded and issued by the Registry do not include expenditures directly recorded by the Secretariat and therefore do not provide total expenditures. Also, the contributions and pledges had not been accounted for in the Finance Section. The Tribunal had not received any consolidated accounts from the Secretariat for the first 18 months of the biennium 1996-1997.

75. The use of the Trust Fund has been lower than projected. So far, the Trust Fund has mainly been used to cover the cost of renting aircraft for $1.2 million; for the start-up staff costs of the Registry's Witness Protection Unit; for the recruitment of four investigators at the P-3 level; and for two joint training workshops of the Tribunal for the former Yugoslavia and that for Rwanda on the prosecution of crimes of sexual violence. A total of $2.1 million has been obligated against the Trust Fund, leaving a balance of $5.3 million. Several new projects have been proposed by the Registry, including implementation of an information and records system, the production of a documentary on the historical background of the genocide to be used in court sessions and the augmentation of the Witness Protection Unit.

76. The Registrar developed a plan to use the Trust Fund to finance partially a new programme to provide funds to non-governmental organizations that provide assistance to victims of genocide and other war crimes in Rwanda. The programme is to be coordinated by the newly recruited adviser to the Registrar on gender issues. The planned budget for the programme, during the three-year period from 1997 to 1999, is $3 million, of which 50 per cent is expected to be charged against the Trust Fund.

77. *According to the Registrar, while he acknowledged that the statute creating the Tribunal did not provide for such a programme of financial aid, in his definition of justice, some effort should be made by the Tribunal to assist the victims of war crimes in addition to the prosecution of perpetrators of war crimes.*

78. Secretariat staff from the Department of Management and the Office of Legal Affairs told the Office of Internal Oversight Services that the Registrar was advised not to execute the programme nor to finance it from the Trust Fund. The Office concurs with that view. *The Registrar stated that such a programme of assistance was a moral and practical necessity in the special circumstances that confronted the Tribunal in Rwanda.*

79. Whatever the merits of the programme, the critical concern was the absence of Tribunal policy, procedures or guidelines for the selection, evaluation and monitoring of projects and programmes drawing on the Trust Fund. The choice of projects should be made in consultation with the other organs of the Tribunal, i.e., the Chambers and the Office of the Prosecutor. A lack of control procedures governing the expenditure of millions of dollars voluntarily contributed to the Tribunal is a serious deficiency. *The Registrar stated that he was working on the development of policies, procedures and guidelines.*

I. Defence counsel management

80. As part of the ongoing efforts to strengthen and streamline the operations of the Tribunal, on 1 July 1997 the Judicial and Legal Services Division was reorganized, resulting in the creation of the Lawyers and Detention Facilities Management Section, among other sections. The Section, which has 15 staff members, is responsible for the management of defence counsel and provides the following functions: maintains rosters of lawyers willing to serve as defence counsel, assigns defence counsel to indigent detainees, briefs new counsel and other defence team members on the rules of the Tribunal, assesses compliance with the provisions of the Directive on Assignments of Defence Counsels and reviews and approves all claims by defence counsel for fees and expenses.

81. According to rule 44 of the Rules of Procedure and Evidence of the Tribunal, a lawyer is considered qualified to represent a suspect or accused person if he or she satisfies the Registry that he or she is admitted to the practice of law in a State or is a university professor of law. Surprisingly, there is no requirement that such lawyers have any criminal or trial experience.

82. Article 17 of the Directive provides that the costs and expenses of legal representation of the suspect or accused that have been necessary or reasonably incurred shall be met by the Tribunal, subject to availability of funds and the applicable Financial Regulations and Rules of the United Nations. However, defence counsels are required, in support of their statements of fees, to provide the Registry with detailed statements of remuneration containing as much information as possible, including the nature of the services rendered and, as appropriate, the relationship between those services and the case pending before the Tribunal.

83. Defence counsel fees are not insignificant. Nearly $1 million was paid by the Tribunal in the nine-month period between January and September 1997 to the assigned defence counsel, with several being paid as much as $15,000 per month. The Office reviewed a sample of the billings submitted and found that some defence counsel fees had been paid even though their statements contained very vague information, such as "conversation with Registry's staff", "review of one decision of the International Court of Justice" or "meeting". Further, the Office had been advised that quite often counsel had successfully claimed payments for time spent reading legal materials that were not linked to the case pending before the Tribunal.

84. The Registry had yet to establish guidelines for determining whether such expenses were reasonable and necessary. In the absence of clear guidelines for determining objectively not only the necessity but also the reasonableness of such expenses, the Office believes that the limited resources of the Tribunal could be seriously affected. In addition, the Registry had not developed a code of conduct for defence counsel, as had been done by the International Criminal Tribunal for the former Yugoslavia, in order to make clear to defence counsel at the outset of their service the standards of conduct, including that related to billings, expected of them. *The Registrar stated that work was ongoing to adapt the code of conduct for defence counsel of the Tribunal for the former Yugoslavia to the situation at the Rwanda Tribunal and to establish guidelines for the review of defence counsel billings.*

85. The Office also found that the legal adviser to the Registrar, whose responsibilities had in the past entailed the review and preparation of documentation for approval of payments to defence counsel, had continued to intervene repeatedly to authorize and to expedite payments to some of them.

86. Furthermore, the Office confirmed that when performing those duties, the legal adviser had received payments totalling $3,000 from two defence attorneys. When interviewed by the Office, the legal adviser stated that the money was for the repayment of private loans made to the attorneys. The legal adviser stated that he had provided the attorneys with his private funds because they had reported to him that they were in urgent need of money. No loan agreements were documented nor was there proof of payment of the claimed loans. When interviewed by the Office separately on the matter, each defence counsel contended that the money lent was necessary for expenses related to the defence of their respective clients. However, the Office notes that there was no need for those loans because the Registry records confirm that both attorneys had received payments from the Registry before the alleged private loans were said to have been made. *The Registrar stated that he would look into the matter and advise the Office of his findings.*

J. Press and Public Affairs Unit

87. Information about the judicial activities of the Tribunal is communicated to the public mainly through the Press and Public Affairs Unit, which issues press releases, newsletters in the region for missions, non-governmental organizations and host Governments and other relevant documentation on the work of the Tribunal. However, unlike at the Tribunal for the former Yugoslavia, copies of indictments and other

public documents are not easily available to the press, as the Unit relies on press releases summarizing the legal documents rather than the documents themselves. This plus the lack of easily available information and access to Tribunal officials and staff have been among the complaints lodged by journalists who have attempted to cover the Tribunal. Further, this Unit of the Registry is required to provide neutral information, as it must observe the distinct interests of its clients, namely, the Chambers, the Office of the Prosecutor and the defendants. It is common in national jurisdictions for the Prosecutor to engage a separate spokesperson to make public information about ongoing matters of public concern.

88. The Unit was headed by a diligent Officer-in-Charge, the third person to head it in two years. The Office found that apart from being inadequately staffed, the Unit was faced with serious difficulties that affected its ability to carry out its important functions in an efficient manner. For example, the Unit had no technology available to provide the press access to live television transmissions of courtroom proceedings, as is done in the Tribunal for the former Yugoslavia. Even minimal equipment was not available – no fax machine, no answering machine and only three computers. The Tribunal lacked a press room where media representatives could gather and other basic facilities for ensuring regular media coverage, such as public telephones, video outlets, tables and chairs. Current Tribunal media coverage was not commensurate with the importance of the ongoing trials, where prosecutors and Registry staff reported that significant testimony was taking place but few people were aware of it. *The Registrar stated that for 1998 the plans included the installation of live audio-visual broadcasting equipment in the courtrooms and the installation of a press room. He also advised that media coverage had increased considerably in recent months, thanks to the dedicated efforts of the staff of the Unit.*

K. General remarks of the Registrar

89. The Registrar, in January 1998, provided the Office with his comments on the draft report, not only on specific Registry functions and issues, which the Office had included in the present Registry section, but also on six general points.

90. *The Registrar stated that the team had veered from its basic mandated task of following up on its earlier report by verifying to what extent its previous recommendations had been implemented to conduct instead another general survey of Tribunal operations. Important consequences arose from this, as would be apparent later, including the indictment of present management for misdeeds of the past and failure to recognize major improvements even in the operations criticized.*

The Office responds that the General Assembly, in its resolution 50/213 C of 12 June 1996, had requested that it undertake "an inspection of the International Tribunal for Rwanda, with a view to identifying problems and recommending measures to enhance the efficient utilization of resources, and to report thereon to the General Assembly". In the present report, the Office observes that the Registry has made progress in several areas, particularly in improved relationships with the other two functions. It also addresses the problems set forth in the previous report (A/51/789), notes the extent of corrective action, where taken, and identifies those areas where deficiencies remain (see, e.g., the annex, which contains a record of the status of implementation of the 26 recommendations of that report; a more detailed status report was provided to the registrar in October 1997). However, the Office believes that the additional problems of the Tribunal that came to its attention during the review and that fell within the Assembly's mandate could not be ignored or go unreported, and they were discussed extensively with the Registrar.

91. *The Registrar stated that the report was heavily tinged with bias against the Registry, targeting especially the Registrar and those assumed to be closely associated with him; correspondingly, and no doubt by way of contrast, the performance of other favoured groups and persons such as the Office of the Prosecutor was glorified and shortcomings, if any, were passed over with a light brush. Major accomplishments of the Registry under the leadership of the new Registrar were either ignored, glossed over or taken for granted, and were treated in effect as non-events.*

The Office rejects such an assertion. If the present report had been read in a balanced way, it would be apparent that positive remarks about the new management in the Registry were integrated throughout the narrative. As to the Office of the Prosecutor, the Office of Internal Oversight Services remains of the view that the success of Project NAKI, undertaken by the Office of the Prosecutor under the leadership of an accomplished lawyer from Cameroon, deserved to be acknowledged. Why should the new Deputy Prosecutor's achievements in pursuing the Tribunal's "sole purpose of prosecuting persons responsible for genocide and other serious violations of international humanitarian law" (statute of the International Criminal Tribunal for Rwanda), even with so understaffed an office, not be a source of pride and appreciation on the part of the Registrar rather than taken by him as evidence of "bias" against the Registry?

92. *The Registrar stated that the report contained factual errors and unverified concluding statements of a kind not normally found in the work of professional auditors and investigators, suggesting that establishing the truth and factual correctness had been sacrificed in pursuit of an agenda.*

The Office notes first that the only "agenda" it pursued was the one established by the General Assembly in its directive to review the Tribunal. Second, the purpose of submitting the draft report was to give five key persons (see para. 4) the opportunity to bring any factual errors to the attention of the Office. The Office regrets that the Registrar's comments, though lengthy and strongly worded, contributed very little factual information. Moreover, although the Registrar claimed that there were factual errors in order to challenge the inclusion of some of the findings, he did not, either in his written remarks or during more than 12 hours of discussion in the several meetings held following the field review and the issuance of the draft report, point to errors in the report that would vitiate the findings of the Office.

93. *The Registrar stated that the manner and means by which the team carried out its investigation, ranging from bullying and harassing interviewees for damaging information about management to "coddling" those with known personal grudges against management, do not inspire confidence in the objectivity of the exercise.*

The Office strongly rejects this characterization and wishes to emphasize that its auditors and investigators follow professional standards. It is noteworthy that the Registrar did not make such assertions during the course of the review or during the exit conference, but only after receipt of a draft report that he felt to be critical of his management. The Registrar did not identify those who were said to have been subjected to "bullying or harassing" by the Office in order to obtain information that would tend to show the Registry management in a damaging way, nor had the Office received complaints from those interviewed, with the exception of defence counsel who participated in the private financial transactions described in the present report.

94. *The Registrar stated that the conclusions advanced by the team that implied criticism of Tribunal operations were in the main unjustified, lacking objective factual foundation or deriving from minor infractions tendentiously blown up. The recommendations put forward in the report, while containing many useful and welcome suggestions, showed a heavy dose of partisan advocacy of the interest of a certain group, while many of the points were in fact a representation to the Tribunal management of ideas that the management itself had informed the team it was working on implementing. As regards recommendations, many of them are either somewhat unnecessary or misdirected.*

The Office leaves it to the Secretary-General to judge the usefulness of its recommendations. The Office is pleased that many of its recommendations coincide with ideas that the Registrar is considering but has not yet adapted or implemented. However, it cannot agree with his characterizations. Findings such as the expenditure of more than $1 million annually for counsel for the accused without establishing Tribunal policies and procedures; the private financial arrangements between the Registrar's legal adviser and defence counsel; and the utilization of the $7 million Trust Fund, also without written Tribunal policies and procedures, do not seem to the Office to fall within the category of "minor infractions tendentiously blown up".

95. *The Registrar stated that the circulation of the draft report (or parts thereof) to a number of people, particularly at Headquarters, well before it was available to Tribunal management for comments was a serious and prejudicial breach of the normal rules of confidentiality assumed to govern such matters and raised once again questions about motive. As far back as the first part of November 1997, people whom he met at Headquarters were making comments to him about the draft report, believing that he had already seen it.*

The Office would be interested to learn how people whom the Registrar met in New York in the first part of November 1997 could make comments on a draft report that had not been prepared and that was not issued until the end of November, and why the Registrar did not raise the matter at that time. The draft report was handled in strict accordance with established procedures for reports of the Office of Internal Oversight Services (set forth in ST/SGB/273 of 7 September 1994), and was provided only to the five programme managers whose offices were directly involved in the operations under review (see para. 4).

IV. The Office of the Prosecutor

96. The Office of the Prosecutor at Kigali had also shown substantial improvement since the previous review of the Office of Internal Oversight Services. A new Deputy Prosecutor had infused a new spirit into the Office. It had been reorganized and consisted of the Prosecution Section and the Investigations Section, both supported by the Information and Evidence Support Unit.

A. Leadership

97. As from May 1997, the Office of the Prosecutor had been headed by a Deputy Prosecutor from Cameroon. Most staff interviewed by the Office of Internal Oversight Services indicated that since his appointment, the "leadership void" outlined in the first review had been filled. Additionally, a new senior trial lawyer with extensive prosecutorial experience had joined the legal team and was advising more junior lawyers on the conduct of their trials. Staff were being provided with day-to-day operational guidance.

98. More important, the prosecution deficiencies previously noted by the Office of Internal Oversight Services had been corrected. The new Deputy Prosecutor had designed and successfully implemented a revitalized prosecutorial strategy focusing on pursuing key figures of the genocide and other war crimes. In addition, the Deputy Prosecutor had established regular negotiations with senior government officials in Rwanda and other countries.

99. That new strategy had provided ground for closer cooperation not only between the Tribunal and the Government of Rwanda, but also between the Government of Rwanda and other Governments supporting the Tribunal. Concrete results of the cooperation were noticed, for example, during the recent joint operation conducted by the Office of the Prosecutor and Kenyan authorities, which enabled the apprehension, primarily in Nairobi, of several top suspects who had occupied high-ranking positions in Government, military and the media. The Nairobi media, which covered the event extensively, described the operation as the first significant achievement of the Tribunal since its creation. Moreover, it enhanced the standing of the Office of the Prosecutor with the citizens of Rwanda, who learned, many for the first time, that the Tribunal was pursuing its mission.

B. Staffing

100. Despite those positive achievements, the Office of the Prosecutor needs considerable support in order to achieve its statutory objectives. The Office of Internal Oversight Services found that one of the major problems still adversely affecting the work of the Office of the Prosecutor was that it continued to be understaffed. It needed additional qualified and experienced staff, especially investigators and criminal trial lawyers. By July 1997, all seconded personnel had left the Office, and the workload of the remaining investigation teams had considerably increased. The Tribunal had been granted permission by the Department of Management to accept secondees until 30 June 1998. However, the Prosecutor was of the view that the Office should be allowed to accept secondees until the vacancy rate fell to an acceptable level or until the end of 1998, in accordance with General Assembly resolution 51/243 of 15 September 1997 on gratis personnel. The Office of Internal Oversight Services supports that view. Considering the coming trials, new staff, including experienced interpreters and translators, are urgently needed.

V. The Chambers

101. The Tribunal is composed of 11 judges, three in each of the Trial Chambers and five in the common Appeals Chambers. At their last plenary session, held in June 1997, the judges re-elected Judge Laity Kama to a second term as President of the Tribunal, and Judge Yakov Ostrovsky to a second term as Vice-President.

102. With the completion at the end of September of the second courtroom, the two Trial Chambers are able to function simultaneously. The number of pending trials will require substantial numbers of courtroom days for the judges. A busy and crowded trial calendar is anticipated.

103. Most judges acknowledged to the Office of Internal Oversight Services that since the appointment of the new Registrar the working relationship between the Chambers and the Registry had improved substantially. Further, the Office was advised that the President of the Tribunal was becoming appropriately involved in the activities of the Registry following the development of guidelines with the assistance of the Office of Legal Affairs. Also, regular meetings were being held to resolve matters of common interest.

104. However, the judges noted that they were not consulted in the selection of support staff for the Chambers. Primarily, they expressed an interest in being involved in the selection of their law clerks and in decisions on their clerks' contract extensions. As noted elsewhere, a number of the judges expressed concerns about their personal security, which were well-taken. In addition, several expressed frustration with the absence of legal research material, access to Internet databases and dedicated fax machines. Concerns were expressed as to the necessity for appropriate offices for the judges that not only provided for their security, but also provided natural light and air.

105. *The Registrar stated that he would consult with the judges on the selection of their law clerks. He further stated*

that efforts were being made to boost technological support facilities and security for the judges.

VI. Conclusions

106. In a number of important ways, the Tribunal was functioning far more effectively than it was the previous year. The Office of the Prosecutor had new vitality and a new prosecutorial strategy, which had already paid substantial dividends. In large measure this success can be attributed to the new Deputy Prosecutor who, with the support and approval of the Prosecutor, had reorganized and energized the Office of the Prosecutor to pursue its mission to great effect. The new Registrar, the new Chief of Administration and the new Deputy Prosecutor had worked to make improvements. Cordial relations with both the Chambers and the Office of the Prosecutor are the result of the efforts of the new Registrar to instill a spirit of service, cooperation and collegiality in the Registry staff.

107. However, the present report notes several areas in which improvements still need to be made by the Registry. The findings should not be read as diminishing the accomplishments that the Registry has been able to achieve in a very short period of time. In addition, the Office of Internal Oversight Services observed that the Department of Management and the Office of Legal Affairs had contributed considerable time and personnel, and the impact of their efforts was evident. Their continued involvement in the Tribunal will be important in resolving or preventing problems.

108. The Office of Internal Oversight Services observed problems in areas it reported on previously – procurement, recruitment, personnel, witness protection and asset management. While efforts are under way by the Registry to improve those functions, much remains to be done. Corrective action is also required in the following areas: Trust Fund operations, defence counsel management and press and public affairs.

VII. Recommendations to the Tribunal

109. The vacancies in both the Registry and the Office of the Prosecutor continue to affect the ability of the Tribunal to function as fully as the mandate requires and should be filled promptly with qualified staff. In the Registry, that should include the appointment of a Deputy Registrar and other courtroom personnel who are fully experienced in courtroom management. For the witness protection programme, it is recommended that the Registrar seek the assistance of Member States in identifying those with the unique and essential experience of protecting witnesses in criminal trials. Further, it is recommended that the Registry request the press officers at both Headquarters and the Tribunal for the former Yugoslavia to assist in defining the necessary press experience and skills and in the selection of qualified staff. (CS97/134/001)

110. Because the Deputy Prosecutor is regularly engaged in high-level discussions with Governments in connection with the investigations that he undertakes on behalf of the Prosecutor, who is classified as an Under-Secretary-General, it is recommended that his post be reclassified at the level of Assistant Secretary-General. (CS97/134/002)

111. The Chief Finance Officer, who is responsible for the implementation of the financial rules of the United Nations, violated the rules and personally interfered in the procurement process, although with no evidence of personal benefit, in obtaining goods and services for the Tribunal. Therefore, he should be advised against future violations or other interference in the procurement process. (CS97/134/003)

112. The legal adviser to the Registrar should be a person of sound legal judgement. As such, the incumbent should be reassigned from his current function for becoming involved in the exchange of private funds with defence counsel. (CS97/134/004)

113. The Finance Assistant whose termination was recommended in the prior report for having taken double salary advances until found to have done so and who has further demonstrated his unfitness for posts involving the management of Tribunal funds should be subject to appropriate administrative and disciplinary action. (CS97/134/005)

114. The operation and utilization of the $7 million Trust Fund should be regularized by the development and implementation of policies and procedures for the selection, evaluation and monitoring of projects and programmes that draw on those funds, which are contributed voluntarily by Member States. Such procedures should be developed by the Registrar in consultation with the President of the Tribunal and the Prosecutor and approved by the Department of Management. (CS97/134/006)

115. The expenditure of funds for defence counsel fees reached nearly $1 million for the first nine months of 1997 and will increase in 1998 substantially. Therefore, it is recommended that guidelines be established promptly for reviewing and approving defence counsel invoices. In

addition, the Registry should adopt the code of conduct for defence counsel devised by the Tribunal for the former Yugoslavia. It is further recommended that consideration be given to revising rule 44 of the Rules of Procedure and Evidence to require that defence counsel have relevant experience. (CS97/134/007)

116. The Registry and the Office of the Prosecutor have acknowledged difficulty in obtaining and managing the assets of the Tribunal, in part because of limited staff and in part because of the conditions of service. However, it is essential that the Registry and the Office of the Prosecutor cooperate to ensure that the assets they have, including notably vehicles and computers, are properly apportioned and that their use is subject to appropriate management controls. In addition, for those purchases made through Headquarters, it is recommended that Headquarters keep to the schedules established for each step of the procurement process, from the solicitation of bids to the delivery of merchandise and services. Further, the Local Committee on Contracts, which in the view of the Office of Internal Oversight Services can provide meaningful safeguards against incorrect or improper procurement practices, should be expanded to include staff representatives of the other two functions and users, namely the Chambers and the Office of the Prosecutor. (CS97/134/008)

117. It is the considered view of the Office of Internal Oversight Services that neither of the facilities rented by the Tribunal provides adequate security or the type of space required for the proper and effective fulfilment of the mandate of the Tribunal. As such, it is recommended that rather than spending the additional and substantial sums that would be required to make the existing facilities adequate, the Tribunal should consider the option of obtaining funding for a suitable facility in each of the host countries, which might include the sharing of space with other United Nations offices or, as appropriate, international organization offices. This would allow for the necessary level of security and confidentiality as well as for needed office and support space. (CS97/134/009)

(*Signed*) Karl Th. **Paschke**
Under-Secretary-General
for Internal Oversight Services

Annex

Status report on the implementation of Recommendations for the International Criminal Tribunal for Rwanda made by the Office of Internal Oversight Services in document A/51/789

No.	*Recommendation*	*Status*
1	The Department of Administration and Management should be the designated Secretariat department to serve as a source of support and guidance to the Registry.	Implemented and ongoing
2	The Tribunal for Rwanda and the Tribunal for the former Yugoslavia should facilitate and foster their mutual relationship. Common expertise should be shared, as is already the case, for instance, with the legal expertise of the Prosecutor through joint indictment reviews and legal analysis. Similar contact at the investigative level would be useful both in the development and articulation of strategies and in operational matters such as the use of informants.	Implemented and ongoing
3	The Tribunal for the former Yugoslavia, begun earlier and with a more established Registry, should serve as a useful model as well as a relevant contact for issues still unresolved in the Registry in Arusha.	Implemented and ongoing
4	The Tribunal, with the assistance of the Office of Legal Affairs, should set forth clearly the role, scope and reporting relationships of the Registrar, within the definitions established by the statute, so that the independence of the Chambers and the Office of the Prosecutor are fully recognized and the service function of the Registry is emphasized and guided.	Implemented and ongoing
5	The President of the Tribunal should supervise the activities of the Registry as provided by the Tribunal's Rules of Procedure and Evidence. This would include approval of the travel of the Registrar.	Implemented with revisions
6	A Deputy Registrar with substantial experience in court management should be appointed expeditiously.	Partially implemented
7	The Registrar should establish regular meetings with the President of the Tribunal and the Deputy Prosecutor in order to discuss his clients' needs and solve potential problems.	Implemented and ongoing
8	The Registry should establish adequate internal controls to ensure that the United Nations rules and regulations are enforced, particularly as to cash management, payroll, entitlements, procurement, personnel actions and financial information.	Partially implemented
9	The Administrative Office in Kigali should be upgraded and authority should be delegated so as to enable the Administrative Officer to provide all day-to-day administrative services to the Office of the Prosecutor.	Not implemented
10	The Registrar, with the support and assistance of the Department of Administration and Management, should fill key positions with qualified staff who have the professional expertise and experience needed to operate the various functions effectively and efficiently. In the recruitment, language skills in English and French, the two working languages of the Tribunal, should be given more attention. An increase in the number of international posts should be considered.	Partially implemented
11	The Registry, with the assistance of the Office of Legal Affairs, should seek a written agreement with the host Government stipulating the detailed terms and conditions for construction and use of the detention facilities in Arusha.	Partially implemented
12	The Registry should establish procedures to ensure that contributions in kind are accounted for and utilized in conformity with United Nations rules and regulations and with donors' intentions, and the Registrar and the Prosecutor should have full knowledge of all such agreements.	Not implemented

No.	Recommendation	Status
13	The Registry should operate dollar bank accounts in both Arusha and Kigali in order to minimize cash payments and cash holding by issuing cheques to staff and vendors.	Implemented
14	The Registry, with staff and resource assistance from the Secretariat, should take immediate measures to ensure that the accounts are corrected, backlogs in financial reporting are settled and all staff members are entered into the payroll system.	Partially implemented
15	The Registry should immediately initiate recovery of overpaid salaries and entitlements.	Partially implemented
16	The posts "borrowed" by the Registry should be returned to the Office of the Prosecutor and filled without delay.	Partially implemented
17	The Prosecutor should select as Deputy Prosecutor a person with substantial leadership skills and relevant experience in the running of a prosecutorial office and the directing of significant criminal investigations.	Implemented
18	The Prosecutor, with the assistance of the Office of Human Resources Management, should select experienced criminal trial lawyers, particularly those with experience commensurate with the institutional requirements of the Tribunal, to be recruited on an expedited basis.	Partially implemented
19	The Prosecutor, with the assistance of the Office of Human Resources Management, should provide the existing senior trial attorneys with sufficient training. Close supervision is necessary to determine whether they can be ready to try these most critical criminal cases.	Implemented
20	Senior investigative posts should be held by staff who are fully responsible and accountable to the Prosecutor and the United Nations. The Prosecutor should select, and the Registrar should recruit with the assistance of the Office of Human Resources Management, experienced investigators with the necessary experience and skills to supervise and conduct the investigations.	Partially implemented
21	The decision to share the few forensic investigators with the Office of the Prosecutor for the former Yugoslavia should be reconsidered by the Prosecutor, as it may delay the substantial work still to be done in Rwanda. The funding for this specialized function should be developed by the Registry in consultation with the Prosecutor.	Implemented
22	The Prosecutor should take urgent steps to enlist the services of intelligence analysts with strategic experience to coordinate the strategy so that leads are developed, assessed and prioritized.	Partially implemented
23	The Registry should give priority to security in both Kigali and Arusha, including filling existing vacancies and increasing the number of posts to meet new needs created by the expanding witness programmes and the commencement of trials.	Partially implemented
24	Given the difficulties caused by the absence of necessary law office resources in Kigali, the Office of the Prosecutor in The Hague and the Office of Legal Affairs should provide more structured support while the Registry seeks additional funding.	Implemented
25	As observed by the Advisory Committee on Administrative and Budgetary Questions (A/49/7/Add.12 of 10 March 1995), the Victims and Witnesses Unit now in the Registry should be located within the Office of the Prosecutor. The Unit should be run by experienced personnel with the necessary training in this specialized area. As most of the witnesses speak Kinyarwanda, at least some staff with knowledge of this language will be critical. The needs of defence witnesses which could not be appropriately handled by the Office of the Prosecutor could be delegated to the official in the Registry who administers all defence-related matters and who could then call upon the experience of the Witness Protection Unit of the Office of the Prosecutor as appropriate.	Not implemented
26	The Registrar should promptly establish a post-trial programme, given that the first witnesses have already testified in the first trial. The Prosecutor, in consultation with the Office of Legal Affairs, may develop a programme that can utilize the seriously underutilized Trust Fund.	Not implemented